

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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SAUL E. GREENHUT  
Junior Party  
(Patent No. 5,964,788),

v.

ALEXIS C. M. RENIRIE, and VINCENT J. A. SCHOUTEN  
Senior Party  
(Application No. 09/494,531).

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Patent Interference No. 105,888 (JL)  
(Technology Center 3700)

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1                   **DECLARATION – Bd. R. 203(b)<sup>1</sup>**

2                   **Part A. Declaration of Interference**

3                   An interference is declared (35 U.S.C. § 135(a)) between the above-  
4                  identified parties. Details of the application, patent, count(s) and claims designated  
5                  as corresponding or as not corresponding to the count(s) appear in Parts E and F of  
6                  this DECLARATION.

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<sup>1</sup> “Bd. R. x” may be used as shorthand for “37 C.F.R. § 41.x”. 69 Fed. Reg. 49960, 49961 (12 Aug. 2004).

1           **Part B. Judge managing the interference**

2           Administrative Patent Judge Jameson Lee has been designated to manage  
3       the interference. Bd. R. 104(a).

4           **Part C. Standing order**

5           A Trial Section STANDING ORDER [SO] (Paper 2) accompanies this  
6       DECLARATION. The STANDING ORDER applies to this interference.

7           **Part D. Initial conference call**

8           A telephone conference call to discuss the interference is set for **2:00 p.m.**  
9       **on June 12, 2012** (the Board will initiate the call).

10          No later than **four business days** prior to the conference call, each party  
11       shall file and serve (SO ¶¶ 10.1 & 105) a list of the motions (Bd.R. 120; Bd.R. 204;  
12       SO ¶¶ 104.2.1, 120 & 204) the party intends to file.

13          A sample schedule for taking action during the motion phase appears as  
14       Form 2 in the STANDING ORDER. Counsel are encouraged to discuss the  
15       schedule prior to the conference call and to agree on dates for taking action. A  
16       typical motion period lasts approximately eight (8) months. Counsel should be  
17       prepared to justify any request for a shorter or longer period.

1                   **Part E. Identification and order of the parties**

2                   Junior Party

3        Named Inventors:     Saul E. Greenhut, Aurora, Colorado

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5        Involved Patent:    5,964,788, issued October 12, 1999, based on  
6                              Application 08/959,391, filed October 28, 1997

7        Title:               Method and apparatus for controlling a pacemaker  
8                              using respiration

9        Assignee:           Pacesetter, Inc.

10                   Senior Party

11        Named Inventors:    Alexis C. M. Renirie of Berg en Dal, and  
12                              Vincent J. A. Schouten of Cadier en Keer, all of  
13                              the Netherlands

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15        Involved Application: 09/494,531, filed January 31, 2000

16        Title:               System and method for respiration-modulated  
17                              pacing

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19        Assignee:           Medtronic, Inc.

20                   The senior party is assigned exhibit numbers 1001-1999. The junior party is  
21                   assigned exhibit numbers 2001-2999. Bd.R. 154(c)(1); SO ¶ 154.2.1. The senior  
22                   party is responsible for initiating settlement discussions. SO ¶ 126.1.

1           **Part F. Count and claims of the parties**

2           Count 1

3           Claim 31 of Renirie's Application or Claim 10 Greenhut's Patent

5           The claims of the parties are:

6           Greenhut:                   1-46

7           Renirie:                   1, 2, 5, 9, 15, 18, 26, 29, 31 and 32

9           The claims of the parties which correspond to Count 1 are:

10          Greenhut:                 10, 12, 13, 36, 40, 41 and 42

11          Renirie:                 1, 2, 5, 9, 15, 18, 26, 29, 31 and 32

13          The claims of the parties which do not correspond to Count 1 are:

14          Greenhut:                 1-9, 11, 14-35, 37-39, 43-46

15          Renirie:                 none

17          The parties are accorded the following benefit for Count 1:

18          Greenhut:                 none

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20          Renirie:                 Application 08/937,443, filed September 25,  
21                                     1997, now Patent 6,141,590, issued October  
22                                     31, 2000

1           **Part G. Heading to be used on papers**

2           The following heading must be used on all papers filed in this interference,

3       see SO ¶ 106.1.1:

4           UNITED STATES PATENT AND TRADEMARK OFFICE

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6           BEFORE THE BOARD OF PATENT APPEALS  
7           AND INTERFERENCES

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9           SAUL E. **GREENHUT**

10           Junior Party  
11           (Patent No. 5,964,788),

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13           v.

14           ALEXIS C. M. **RENIRIE**, and VINCENT J. A. SCHOUTEN

15           Senior Party  
16           (Application No. 09/494,531).

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18           Patent Interference No. 105,888 (JL)

19           (Technology Center 3700)

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## **Part H. Order form for requesting file copies**

When requesting copies of files, use of SO Form 4 will greatly expedite processing of the request. Please attach a copy of Parts E and F of this DECLARATION with a hand-drawn circle around the patents and applications for which a copy of a file wrapper is requested.

/Jameson Lee/  
Administrative Patent Judge

Enc:

Copy of STANDING ORDER (March 2011)  
Copy of claims of Application 09/494,531  
Copy of Patent 5,964,788

13 cc (via overnight delivery):

Attorney for Greenhut:

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SYLMAR CA 91392-9221

Attorney for Renirie:

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